

II. REMARKS

A. Introduction

In the February 2, 2009 Office Action, claims 17-19 and 22-34 are noted as pending, claims 17-19 are withdrawn, and claims 22-34 are rejected.

In summary of this Response, claims 23, 26-27 and 29-30 have been canceled, claims 22, 33 and 34 have been amended, and remarks are provided.

B. Rejection of Claims 26-27 and 29-30

The claims are rejected as being directed to a non-elected invention. These claims are canceled herein without prejudice or disclaimer.

C. Rejection of Claims

Claims 22-25, 28 and 32 have been rejected as being anticipated by Householder, U.S. Patent No. 5,290,292.

As noted above, rejected claim 23 has been canceled. Nevertheless, it is respectfully submitted that the present invention, as recited by claims 22, 24-25, 28 and 32, was neither anticipated by nor rendered obvious by the cited reference.

Independent claim 22 has been amended by including the subject matter of dependent claim 23, now canceled, to define an extension having tips with free ends or terminus, as shown in Fig. 1, 2 and 4 and as described at, e.g., numbered paragraphs [0015]-[0016] and [0025] of the application as filed.

Householder discloses an ophthalmic device that is used to rotate an eyeball downward to facilitate eye surgery. Col. 1, lines 9-10, 19-20, and 63-65, Col. 2, lines 29-30. The device is a "modified triangular shape" when viewed from the top and a shape which resembles an inverted snow sled when viewed from the side" (Col. 2, lines 47-50). The device includes two linear arms 3-4 that extend angularly from a junction 5 at one end. Col. 2, lines 50-58 and Figs. 4-7. At the other end of the device, there are formed integral, spaced "curls" 6, 7, respectively, that merge into "curls" 9, 10, between which is formed at least one integral cross bar 11, thus creating a closed device. That is, there is no free end or terminus of the rigid speculum of Householder, as each of the curls 9, 10 merges into a cross member.

Thus, independent claim 22, as amended, includes at least one recitation that is not disclosed by Householder, so the reference cannot anticipate the claim.

Further, while Householder suggests that the separate cross bar 8 is "optional" (Col. 2, line

59), no such suggestion is made for the cross bar 11. Even if one were to consider deleting the cross bar 11, it is believed that the resulting device would not operate as desired, and might be detrimental in the intended surgery. Accordingly, it is also believed that Householder fails to suggest modification of its device to arrive at the present invention as now recited by claim 22.

Further each of rejected claims 24-25, 28 and 32 depends from amended claim 22 and should also be allowable for at least the same reasons above. Moreover, each of these claims recites features which, in combination with the features of claim 22, are not disclosed or taught by the reference.

Claims 31 and 33 are rejected as being made obvious by Householder, which is relied upon for a teaching the recited materials and dimensions. However, as noted above, Householder fails to disclose or teach at least one significant recitation of independent claim 22, from which claims 31 and 33 depend, so these dependent claims should be patentable thereover for the reasons stated above. Further, claims 31 and 33 recite additional features, which, when combined with the features of claim 22, are not disclosed or taught by Householder.

Finally, claim 34 is rejected as being made obvious by Householder and Barot, U.S. Patent No. 5,807,244, the latter of which is relied upon for showing the recited flexibility. However, regardless of any teaching of flexibility by Barot, this reference fails to compensate for the shortcomings of Householder discussed above in relation to independent claim 22. That is, Barot fails to suggest modification of the Householder device to include an extension having two tips angled relative to each other, which tips each have a free terminus.

III. Conclusion

In light of the above amendments and remarks, it is respectfully submitted that claims 22, 24, 25, 28 and 31-34 are now in condition for allowance.

If there are any additional fees associated with this Response, please charge same to our Deposit Account No. 19-3935.

Finally, if there are any formal matters remaining after this Response, the undersigned would appreciate a telephone conference with the Examiner to attend to these matters.

Respectfully submitted,

STAAS & HALSEY LLP
By: _____
William F. Herbert
Registration No. 31,024

Date: 5/4/09
1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501